

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHELLA C. ALFARO BRITTANY,

Plaintiff,

v.

WESTFIELD MALL,

Defendant.

No. 2:24-cv-3394-TLN-SCR

FINDINGS AND RECOMMENDATIONS

Plaintiff Michella Brittany is proceeding pro se in this action, which was referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1). On December 5, 2024, Plaintiff filed an application to proceed in forma pauperis (“IFP”). ECF No. 2. On May 5, 2025, the Court denied the IFP application and ordered Plaintiff to either pay the filing fee or file for voluntary dismissal within 21 days. ECF No. 3. As of these findings, Plaintiff has not filed for voluntary dismissal or paid the filing fee.

When deciding whether to recommend dismissal for failure to comply with a court order, the Court must consider “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.” *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (citation omitted). “The public’s

1 interest in expeditious resolution of litigation always favors dismissal.” *Yourish v. Cal. Amplifier*,
2 191 F.3d 983, 990 (9th Cir. 1999). The Court’s need to manage its docket also weighs in favor of
3 dismissal, particularly given the heavy caseload in this District. The third factor is neutral given
4 that Defendant has not yet appeared, but “[u]nnecessary delay inherently increases the risk that
5 witnesses’ memories will fade and evidence will become stale.” *Pagtalunan v. Galaza*, 291 F.3d
6 639, 643 (9th Cir. 2002). The fourth factor weighs against dismissal, but less so if Plaintiff is not
7 precluded from litigating this matter. The Court has considered less drastic alternatives and
8 concludes that dismissal without prejudice is appropriate.

9 Accordingly, **IT IS HEREBY RECOMMENDED THAT** this action be DISMISSED
10 WITHOUT PREJUDICE. These findings and recommendations are submitted to the United
11 States District Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).
12 Within fourteen (14) days after being served with these findings and recommendations, Plaintiff
13 may file written objections with the court. Such document should be captioned “Objections to
14 Magistrate Judge’s Findings and Recommendations.” Local Rule 304(d). Plaintiff is advised that
15 failure to file objections within the specified time may waive the right to appeal the District
16 Court’s order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

17 **SO ORDERED.**

18 DATED: June 13, 2025

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20 SEAN C. RIORDAN
21 UNITED STATES MAGISTRATE JUDGE
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